

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CHRISTOPHER E. BROWN,	:	
an individual,	:	Case No.: 08-CV-2218
	:	
Plaintiff,	:	
	:	CORRECTED DECLARATION
	:	IN RESPONSE TO COURT'S
	:	ORDER DATED
	:	<u>SEPTEMBER 23, 2008</u>
vs.	:	
	:	
ST. JOHN'S UNIVERSITY,	:	
a private university,	:	
	:	
Defendant.	:	
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Pursuant to this Court's September 23, 2008, Initial Scheduling Conference Order, Plaintiff hereby files this corrected response and declaration regarding ADA Barriers and the location of Plaintiff's fall at the Defendant's Property, and state the following¹:

SPECIFIC BARRIERS

I. Marillac Hall

- A. The elevators are not accessible due to hall call buttons which are placed above 42" in violation of ADAAG 4.10.3;
- B. The elevators are not accessible due to high elevator car controls inside the elevator due to buttons located above 48" in violation of ADAAG 4.10.12 for a front approach;

¹Plaintiff originally filed an unsigned version of this document in error as Docket Entry 8. However, the signed version was served via email to attorney for Defendant, Elaine Chou, Esq., on October 23, 2008.

- C. There is improper door hardware (door knobs) which cannot be easily operated without tight grasping on almost all interior doors in the building in violation of ADAAG 4.13.9;
- D. There is no restroom designated as accessible in this building in violation of ADAAG 4.23.1;
- E. In the men's restroom, the sinks lack pipe insulation in violation of ADAAG 4.24.6;
- F. In the men's restroom, the mirrors are not accessible because they are mounted at a height above 40" from the floor in violation of ADAAG 4.19.6;
- G. In the men's restroom, the paper towel dispensers are not accessible because they are mounted with the controls at a height above 54" outside of the reach range for a person in a wheelchair in violation of ADAAG 4.2.5 and 4.2.6;
- H. In the men's restroom, there are six toilet stalls and none are designated as accessible in violation of ADAAG 4.23.4;
- I. In the stalls in the men's restroom, there are no grab bars provided in violation of ADAAG 4.17.6 and fig. 30;
- J. In the stalls in the men's restroom, there is inadequate sizing and clear floor space for a person in a wheelchair in violation of ADAAG 4.17.3 and fig.30;
- K. The toilets in the stalls of the men's restroom are mounted below a height of 17" from the top of the seat to the floor in violation of ADAAG 4.16.3;
- L. The flush controls of the urinals in the men's restroom are mounted above a height of 44" from the floor in violation of ADAAG 4.18.4;
- M. The stall doors in the men's restroom swing inward into the stall obstructing the clear

floor space of the stall and prevents a person in a wheelchair from closing the stall door while inside the stall in violation of ADAAG 4.22.2 and 4.22.4;

- N. At the door exiting the men's restroom, there is inadequate pull side clearance (less than 18") making it difficult for a person in a wheelchair to pull open the door in violation of ADAAG 4.13.6 and fig.25;
- O. In the hallway in the men's restroom near the exit door the path of travel contains changes in direction but fails to provide 60" diameter turn radius for a person in a wheelchair in violation of ADAAG 4.2.4.1, 4.3.3 and fig.3;
- P. At the side entrance to Marillac from the hill near Taffner Field House, there is uneven/broken pavement on the sidewalk leading to the door in violation of ADAAG 4.3.8;
- Q. At the side entrance to Marillac from the hill near Taffner Field House, there is a cross-slope in excess of 1:50 on the sidewalk leading to the door in violation of ADAAG 4.3.7;
- R. At the side entrance to Marillac from the hill near Taffner Field House, there are changes in level exceeding 1/4" on the sidewalk leading to the door which fail to provide proper beveling in violation of ADAAG 4.5.2
- S. At the side entrance door to Marillac from the hill near Taffner Field House, there are changes in level exceeding 1/4" which fail to provide proper beveling in violation of ADAAG 4.5.2;
- T. There are three designated accessible parking spaces which are not accessible due to being placed on a cross-slope in excess of 1:50 in violation of ADAAG 4.6.3, because

the blue parking lines on the ground are faded, and because there is no signage designating these spaces as accessible in violation of ADAAG 4.6.4;

- U. The route from the three designated accessible parking spaces to Marillac Hall is not accessible because it has a cross-slope in excess of 1:50 and a slope in excess of 1:12 in violation of ADAAG 4.3.7 and 4.8.2, respectively;
- V. The curb cuts/ramps near the three parking spaces discussed above on both sides of the street are not accessible due to slopes exceeding 1:12, cross-slopes exceeding 1:50, and side flare slopes exceeding 1:10 in violation of ADAAG 4.7.2, 4.8.2, and 4.7.5;
- W. The curb cuts/ramps outside the bookstore have cross-slopes exceeding 1:50 and side flares exceeding 1:10 in violation of ADAAG 4.7.2, 4.8.2, and 4.7.5;
- X. The sidewalk by the bookstore going up the hill across the street from Bent Hall is inaccessible due to a cross-slope in excess of 1:50 in violation of ADAAG 4.3.7 and narrow width near the bottom of the steps in violation of ADAAG 4.3.3;
- Y. The patio outside the bookstore contains cross-slopes exceeding 1:50 in violation of ADAAG 4.3.7.

II. Bent Hall

- A. There is improper door hardware, doorknobs instead of lever handles, which cannot be easily operated without tight grasping on almost all interior doors in the building in violation of ADAAG 4.13.9;
- B. At the reception office for the College of Professional Studies, the counter heights are in excess of 36" in violation of ADAAG 7.2.

- C. There is no restroom designated as accessible in this building in violation of ADAAG 4.23.1;
- D. In the men's restroom, the sinks lack proper pipe insulation in violation of ADAAG 4.24.6;
- E. In the men's restroom, there are two toilet stalls and none are designated as accessible in violation of ADAAG 4.23.4;
- F. In the larger stall in the men's restroom, there is no rear bar and the side grab bars provided are inadequate due to their incorrect dimensions and placement in violation of ADAAG 4.17.6 and fig. 30;
- G. The toilet in the larger stall of the men's restroom is mounted more than 18" from the wall to the center line of the toilet in violation of ADAAG 4.17.3 and fig.30;
- H. The flush controls of the toilet in the larger stall in the men's restroom is mounted on the wall side (not the wide side as required) in violation of ADAAG 4.16.5;
- I. In the larger stall in the men's restroom, the coat hook is located above 54" outside the reach range of a person in a wheelchair in violation of ADAAG 4.2.5 and 4.2.6;
- J. In the larger stall in the men's restroom, the door hardware cannot be easily operated without grasping and twisting and is not accessible in violation of ADAAG 4.13.9;
- K. The sidewalk near Bent Hall going up the hill across the street from the bookstore is inaccessible due to a cross-slope in excess of 1:50 in violation of ADAAG 4.3.7, a slope in excess of 1:12 in violation of ADAAG 4.3.7, narrow width due to the lack of parking bumpers to prevent cars from pulling up to far and obstructing the sidewalk in violation of ADAAG 4.3.3, and uneven/broken pavement;

- L. At the ramp at Bent Hall, there is uneven/broken pavement on the sidewalk leading to the ramp and at the bottom of the ramp in violation of ADAAG 4.3.8;
- M. At the ramp at Bent Hall, the handrails are not accessible due to the failure to provide extensions on the ends of the rails in violation of ADAAG 4.8.5(2);
- N. The ramp at Bent Hall is not accessible due to a failure to provide a level landing at the bottom of the ramp in violation of ADAAG 4.8.4;

III. Carnesecca Arena

- A. The outdoor ticket counter at the ticket office is at a height of over 36" and is not accessible in violation of ADAAG 7.2;
- B. The curb cuts/ramps outside the ticket office are inaccessible due to slopes exceeding 1:12 and cross-slopes exceeding 1:50 in violation of ADAAG 4.7.2 and 4.8.2;

IV. University Center

- A. The ramp at the front entrance to the building is not accessible due to a failure to provide a level landing at the bottom of the ramp, a metal belt which protrudes out of the pavement at the bottom of the ramp, and uneven/broken pavement at the top of the ramp, in violation of ADAAG 4.8.4;
- B. The ramp at the entrance to the building is not accessible due to a cross slope in excess of 1:50 in violation of ADAAG 4.8.6;
- C. The ramp at the entrance to the building is not accessible due to the failure to provide handrails on both sides of the ramp (there is only a railing on one side) in violation of ADAAG 4.8.5;
- D. The ramp at the entrance to the building is not accessible due to the failure to provide

extensions at each end of the handrail in violation of ADAAG 4.8.5;

- E. At the parking lot near the career center, the designated accessible spaces are not accessible due to inadequate number of spaces (2) serving a massive lot in violation of ADAAG 4.1.2(5);
- F. At the parking lot near the career center, the designated accessible spaces are not accessible due to cross slopes in excess of 1:50 in violation of ADAAG 4.6.3 and failure to provide access aisles in violation of ADAAG 4.6.3;
- G. At the parking lot near the career center, the designated accessible spaces are not accessible due to a lack of curb cuts (i.e., not along an accessible route) which prevents a person in a wheelchair from accessing the sidewalk from the parking lot without going back into the street in violation of ADAAG 4.6.2 and 4.3.2;
- H. There is uneven/broken pavement on the sidewalk leading from the parking to the career center entrance in violation of ADAAG 4.3.8;

V. Newman Hall

- A. There is improper door hardware, doorknobs instead of lever handles, which cannot be easily operated without tight grasping on almost all interior doors in the building in violation of ADAAG 4.13.9;
- B. The entrance to the financial aid office is located at the top of the stairs with no ramp or lift. There is another way to reach the office by going through the accounting office, however, there is no signage to indicate this as an alternate route in violation of ADAAG 4.3.2 and 4.1.2(7)(c);
- C. There is no restroom designated as accessible in this building in violation of ADAAG

4.23.1;

- D. In the men's restroom, the sinks lack pipe insulation in violation of ADAAG 4.24.6;
- E. In the men's restroom, the mirrors are not accessible because they are mounted at a height above 40" from the floor in violation of ADAAG 4.19.6;
- F. In the men's restroom, there are two toilet stalls and none are designated as accessible in violation of ADAAG 4.23.4;
- G. In the stalls in the men's restroom, there are no grab bars provided in violation of ADAAG 4.17.6 and fig. 30;
- H. In the stalls in the men's restroom, there is inadequate sizing and clear floor space for a person in a wheelchair in violation of ADAAG 4.17.3 and fig.30;
- I. In the hallway in the men's restroom near the exit door the path of travel contains changes in direction but fails to provide 60" diameter turn radius for a person in a wheelchair in violation of ADAAG 4.2.4.1, 4.3.3 and fig.3;

VI. Belson Hall/Finley Hall

- A. The elevator is not accessible because the hall call buttons are obstructed by a large recycling bin which protrudes more than 4" from the wall and prevents a person in a wheelchair from reaching the buttons in violation of ADAAG 4.10.3;
- B. The elevator is not accessible due to elevator car controls/buttons located above 48" outside of the reach range for a person in a wheelchair for a front approach in violation of ADAAG 4.10.12(3);
- C. The fountains in the hallways are not accessible because they fail to provide adequate knee clearance in violation of ADAAG 4.15.5;

- D. There is no restroom designated as accessible in this building in violation of ADAAG 4.23.1;
- E. In the men's restroom, the sinks lack pipe insulation in violation of ADAAG 4.24.6;
- F. In the men's restroom, the mirrors are not accessible because they are mounted at a height above 40" from the floor in violation of ADAAG 4.19.6;
- G. In the men's restroom, none of the toilet stalls are designated as accessible in violation of ADAAG 4.23.4;
- H. In the stalls in the men's restroom, there are no grab bars provided in violation of ADAAG 4.17.6 and fig. 30;
- I. In the stalls in the men's restroom, there is inadequate sizing and clear floor space for a person in a wheelchair in violation of ADAAG 4.17.3 and fig.30;
- J. The toilets in the stalls of the men's restroom are mounted below a height of 17" from the top of the seat to the floor in violation of ADAAG 4.16.3;
- K. The flush controls of the urinals in the men's restroom are mounted above a height of 44" from the floor in violation of ADAAG 4.18.4;
- L. The stall doors in the men's restroom swing inward into the stall obstructing the clear floor space of the stall and prevents a person in a wheelchair from closing the stall door while inside the stall in violation of ADAAG 4.22.2 and 4.22.4;
- M. The toilet in the larger stall of the men's restroom is mounted less than 18" from the wall to the center line of the toilet in violation of ADAAG 4.17.3 and fig.30;
- N. The sink faucet handles are not easily operated without tight grasping and twisting in violation of ADAAG 4.24.7;

VII. Taffner Field House

- A. Near the front entrance of the building, at the bottom of the steps on the left side near the clock, there are curb cuts/ramps with slopes in excess of 1:12 and side flares in excess of 1:10 in violation of ADAAG 4.7.2, 4.8.2 and 4.7.5;
- B. At the front entrance of the building, at the bottom of the steps on the left side near the clock, there are changes in level and cracked/broken pavement in the sidewalk without a ramp or beveling in violation of ADAAG 4.3.8, and the sidewalk has a cross-slope in excess of 1:50 in violation of ADAAG 4.3.7 preventing a person in a wheelchair from using the left sidewalk going down the hill towards Taffner;
- C. At the bottom of the hill near Taffner and the theater, there are curb cuts/ramps that are not accessible due to slopes in excess of 1:12 in violation of ADAAG 4.7.2, 4.8.2;
- D. Along the left sidewalk going down the hill towards Taffner, there are numerous areas where the slope exceeds 1:12, the cross-slope exceeds 1:50, and there are potholes obstructing the path of travel in violation of ADAAG 4.3.7 and 4.8.2;
- E. Along the right sidewalk going down the hill towards Taffner, there are numerous areas where the slope exceeds 1:12, the cross-slope exceeds 1:50, and there are potholes obstructing the path of travel in violation of ADAAG 4.3.7 and 4.8.2;
- F. Along the right sidewalk going down the hill towards Taffner, there are curb cuts/ramps that are not accessible due to slopes in excess of 1:12 in violation of ADAAG 4.7.2, 4.8.2;
- G. Along the right sidewalk going down the hill towards Taffner, there are normally security vehicles parked on the route which further obstruct the path of travel in

violation of ADAAG 4.3.3;

- H. Along the hill on the right sidewalk leading to the bookstore, the curb cut/ramp has excessive slopes in violation of ADAAG 4.7.2 and 4.8.2;
- I. Along the center of the road going down the hill towards Taffner, there are numerous cracks in the pavement and potholes which obstruct the path of travel in violation of 4.3.2;
- J. On the side of Taffner, steps were carved in a large hill which goes from the front of Taffner to the rear. However, this improvement cut off a major direct route for persons in wheelchairs who arrive via bus at Gate 5 to connect with the rest of the campus in violation of ADAAG 4.3.2;

Plaintiff reserves the right to supplement this document as more information becomes available.

LOCATION OF THE FALL

Plaintiff's fall occurred in the broken/cracked portion of pavement on the road going down the hill between the service/side entrance of Marillac (on the right) and DaSilva Memorial Field (on the left) going towards Taffner and is depicted in the photograph attached herein as Exhibit "A."

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October 2008, a true and correct copy of the foregoing has been furnished via ECF to Elaine Chou, Esq., Bierderman, Reif, Hoenig & Ruff, P.C., 570 Lexington Avenue, New York, NY 10022.

By: /s/ J. Justin Griffin
J. Justin Griffin, Esq.